

AMENDED IN ASSEMBLY SEPTEMBER 1, 2005

AMENDED IN ASSEMBLY AUGUST 25, 2005

AMENDED IN ASSEMBLY JULY 12, 2005

AMENDED IN ASSEMBLY JULY 1, 2005

AMENDED IN ASSEMBLY JUNE 23, 2005

AMENDED IN SENATE MAY 31, 2005

AMENDED IN SENATE MAY 11, 2005

AMENDED IN SENATE APRIL 26, 2005

**SENATE BILL**

**No. 1087**

**Introduced by Senator Florez**

February 22, 2005

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An act to amend Section 65589.7 of the Government Code, and to add Section 10631.1 to the Water Code, relating to housing.

LEGISLATIVE COUNSEL'S DIGEST

SB 1087, as amended, Florez. Housing elements: services.

(1) The Planning and Zoning Law requires each city, county, or city and county to prepare and adopt a general plan for its jurisdiction that contains certain mandatory elements, including a housing element. One part of the housing element is an assessment of housing needs and an inventory of resources and constraints relevant to meeting those needs. That law also requires that the housing element adopted by the legislative body of the city, county, or city and county and any amendments made to that element be delivered to all public agencies or private entities that provide water services at retail or sewer services within the territory of the legislative body.

The Planning and Zoning Law also requires each public agency or private entity providing these services to grant a priority for the provision of available and future resources or services to proposed housing developments that help meet the legislative body's share of the regional housing need for lower income households as identified in the housing element and any amendments to the housing element.

This bill would require that the adopted housing element and any amendments be delivered immediately to all public agencies or private entities that provide water or sewer services, as specified, would apply these provisions to proposed developments that include housing units affordable to lower income households, and would require, on or before July 1, 2006, that these public agencies or private entities adopt written policies and procedures, and at least once every 5 years thereafter, with specific objective standards for provision of these services in conformance with these provisions. *The bill would also require the Public Utilities Commission to adopt written policies and procedures for use by private water and sewer companies regulated by the commission in a manner consistent with these provisions.* By increasing the duties of local public officials, the bill would impose a state-mandated local program.

This bill would also provide that a provider of water or sewer services may not deny or condition the approval of an application for services, or reduce the amount of the services applied for, if the proposed development includes housing affordable to lower income households, except upon making specified findings.

The bill would make these provisions applicable to charter cities.

(2) The Urban Water Management Planning Act requires urban water suppliers to prepare and adopt urban water management plans for submission to the Department of Water Resources, which identify and quantify the existing and planned sources of water available to the water supplier's service area based on specified factors.

This bill would also require that the water use projections required by these provisions include the projected water use for single-family and multifamily residential housing for lower income households as identified in the housing element of any city, county, or city and county in the service area of the supplier.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 65589.7 of the Government Code is  
2 amended to read:

3 65589.7. (a) The housing element adopted by the legislative  
4 body and any amendments made to that element shall be  
5 immediately delivered to all public agencies or private entities  
6 that provide water or sewer services for municipal and industrial  
7 uses, including residential, within the territory of the legislative  
8 body. Each public agency or private entity providing water or  
9 sewer services shall grant a priority for the provision of these  
10 services to proposed developments that include housing units  
11 affordable to lower income households.

12 (b) A public agency or private entity providing water or sewer  
13 services shall adopt written policies and procedures, not later  
14 than July 1, 2006, and at least once every five years thereafter,  
15 with specific objective standards for provision of services in  
16 conformance with this section. *For private water and sewer*  
17 *companies regulated by the Public Utilities Commission, the*  
18 *commission shall adopt written policies and procedures for use*  
19 *by those companies in a manner consistent with this section.* The  
20 policies and procedures shall take into account ~~any~~ all of the  
21 following:

22 (1) Regulations and restrictions adopted pursuant to Chapter 3  
23 (commencing with Section 350) of Division 1 of the Water Code,  
24 relating to water shortage emergencies.

25 (2) The availability of water supplies ~~or sewer capacity~~ as  
26 determined by the public agency or private entity pursuant to an  
27 urban water management plan adopted pursuant to Part 2.6  
28 (commencing with Section 10610) of Division 6 of the Water  
29 Code.

1 (3) Plans, documents, and information relied upon by the  
2 public agency or private entity that is not an “urban water  
3 supplier,” as defined in Section 10617 of the Water Code, or that  
4 provides sewer service, that provide a reasonable basis for  
5 making service determinations.

6 (c) A public agency or private entity that provides water or  
7 sewer services shall not deny or condition the approval of an  
8 application for services to, or reduce the amount of services  
9 applied for by, a proposed development that includes housing  
10 units affordable to lower income households unless the public  
11 agency or private entity makes specific written findings that the  
12 denial, condition, or reduction is necessary due to the existence  
13 of one or more of the following:

14 (1) The public agency or private entity providing water service  
15 does not have “sufficient water supply,” as defined in paragraph  
16 (2) of subdivision (a) of Section 66473.7, or is operating under a  
17 water shortage emergency as defined in Section 350 of the Water  
18 Code, or does not have sufficient water treatment or distribution  
19 capacity, to serve the needs of the proposed development, as  
20 demonstrated by a written engineering analysis and report.

21 (2) The public agency or private entity providing water service  
22 is subject to a compliance order issued by the State Department  
23 of Health Services that prohibits new water connections.

24 (3) The public agency or private entity providing sewer  
25 service does not have sufficient treatment or collection capacity,  
26 as demonstrated by a written engineering analysis and report on  
27 the condition of the treatment or collection works, to serve the  
28 needs of the proposed development.

29 (4) The public agency or private entity providing sewer  
30 service is under an order issued by a regional water quality  
31 control board that prohibits new sewer connections.

32 (5) The applicant has failed to agree to reasonable terms and  
33 conditions relating to the provision of service generally  
34 applicable to development projects seeking service from the  
35 public agency or private entity, including, but not limited to, the  
36 requirements of local, state, or federal laws and regulations or  
37 payment of a fee or charge imposed pursuant to Section 66013.

38 (d) The following definitions apply for purposes of this  
39 section:

(1) “Proposed developments that include housing units affordable to lower income households” means that dwelling units shall be sold or rented to lower income households, as defined in Section 50079.5 of the Health and Safety Code, at an affordable housing cost, as defined in Section 50052.5 of the Health and Safety Code, or an affordable rent, as defined in Section 50053 of the Health and Safety Code.

(2) “Water or sewer services” means supplying service through a pipe or other constructed conveyance for a residential purpose, and does not include the sale of water for human consumption by a water supplier to another water supplier for resale. As used in this section, “water service” provided by a public agency or private entity applies only to water supplied from public water systems subject to Chapter 4 (commencing with Section 116275) of Part 12 of Division 104 of the Health and Safety Code.

(e) This section is intended to neither enlarge nor diminish the existing authority of a city, county, or city and county in adopting a housing element. Failure to deliver a housing element adopted by the legislative body or amendments made to that element, to a public agency or private entity providing water or sewer services shall neither invalidate any action or approval of a development project nor exempt a public agency or private entity from the obligations under this section. The special districts which provide water or sewer services related to development, as defined in subdivision (e) of Section 56426, are included within this section.

(f) The Legislature finds and declares that this section shall be applicable to all cities and counties, including charter cities, because the Legislature finds that the lack of affordable housing is a matter of vital statewide importance.

SEC. 2. Section 10631.1 is added to the Water Code, to read:

10631.1. (a) The water use projections required by Section 10631 shall include projected water use for single-family and multifamily residential housing needed for lower income households, as defined in Section 50079.5 of the Health and Safety Code, as identified in the housing element of any city, county, or city and county in the service area of the supplier.

(b) It is the intent of the Legislature that the identification of projected water use for single-family and multifamily residential housing for lower income households will assist a supplier in

1 complying with the requirement under Section 65589.7 of the  
2 Government Code to grant a priority for the provision of service  
3 to housing units affordable to lower income households.

4 SEC. 3. The Legislature finds and declares that Sections  
5 65104 and 66014 of the Government Code provide local agencies  
6 with authority to levy fees sufficient to pay for the program or  
7 level of service mandated by this act.

8 SEC. 4. No reimbursement is required by this act pursuant to  
9 Section 6 of Article XIII B of the California Constitution because  
10 a local agency or school district has the authority to levy service  
11 charges, fees, or assessments sufficient to pay for the program or  
12 level of service mandated by this act, within the meaning of  
13 Section 17556 of the Government Code.

14 However, if the Commission on State Mandates determines  
15 that this act contains other costs mandated by the state,  
16 reimbursement to local agencies and school districts for those  
17 costs shall be made pursuant to Part 7 (commencing with Section  
18 17500) of Division 4 of Title 2 of the Government Code.